

**2009 Montana Legislature**

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SENATE BILL NO. 491

House Taxation Hearing With Sponsor Amendments

Prepared by Harold Blattie 4/02/2009

INTRODUCED BY D. LEWIS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE METHOD FOR DETERMINING THE PORTION OF THE PROPERTY TAX LEVY BY POLITICAL SUBDIVISIONS FOR GROUP BENEFIT INSURANCE CONTRIBUTIONS THAT ARE NOT SUBJECT TO THE PROPERTY TAX LIMITATION LAW; PROVIDING A TRANSITION PROVISION; AMENDING SECTIONS 2-9-212, 2-18-703, AND 15-10-420, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-9-212, MCA, is amended to read:

**"2-9-212. Political subdivision tax levy to pay premiums contributions.** (1) Subject to 15-10-420 and subsection (2) of this section, a political subdivision, except for a school district, may levy an annual property tax in the amount necessary to fund the premium contribution for insurance, deductible reserve fund, and self-insurance reserve fund as authorized in this section and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5).

Purpose is to apply the term "contribution" consistently throughout.

(2) (a) If a political subdivision ~~made MAF~~ contributions for group benefits under 2-18-703 on or before July 1, 2001, the increase in the political subdivision's property tax levy for the political subdivision's premium contributions, the amount in excess of the base amount CONTRIBUTION as determined under 2-18-703(4) ~~(d)~~ (c) for group benefits under 2-18-703 beyond the amount of contributions in effect at the beginning of the last fiscal year is not subject to the mill levy calculation limitation provided for in 15-10-420. Levies implemented under this

section must be calculated separately from the mill levies calculated under 15-10-420 and are not subject to the inflation factor described in 15-10-420(1)(a).

Purpose is to clearly establish a "base" to clarify what amount is used as the base for determining the amount not subject to the mill levy limitation

**Amendment changes the term "amount" to "contribution" for further clarification**

(i) Contributions for group benefits paid wholly or in part from user charges generated by proprietary funds, as defined by generally accepted accounting principles, are not included in the amount exempted from the mill levy calculation limitation provided for in 15-10-420.

This section clarifies that the cost for group benefits for employees funded by proprietary (interagency) funds are not included in the permissive levy. Because they are funded by user charges, the cost for their group benefits should not be included in any property tax levies.

(ii) If tax-billing software is capable, the county treasurer shall list separately the cumulative mill levy or dollar amount on the tax notice sent to each taxpayer under 15-16-101(2). The amount must also be reported to the department of administration pursuant to 7-6-4003. The mill levy must be described as the permissive medical levy.

(b) Each year prior to implementing a levy under subsection (2)(a), after notice of the hearing given under 7-1-2121 or 7-1-4127, a public hearing must be held regarding any proposed increases.

(c) A levy under this section in the previous year may not be included in the amount of property taxes that a governmental entity is authorized to levy for the purposes of determining the amount that the governmental entity may assess under the provisions of 15-10-420(1)(a). When a levy under this section decreases or is no longer levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a).

(3) (A) FOR THE PURPOSES OF THIS SECTION, "GROUP BENEFITS" MEANS GROUP HOSPITALIZATION, HEALTH, MEDICAL, SURGICAL, LIFE, AND OTHER SIMILAR AND

RELATED GROUP BENEFITS PROVIDED TO OFFICERS AND EMPLOYEES OF POLITICAL SUBDIVISIONS, INCLUDING FLEXIBLE SPENDING ACCOUNT BENEFITS AND PAYMENTS IN LIEU OF GROUP BENEFITS.

(B) THE TERM DOES NOT INCLUDE CASUALTY INSURANCE AS DEFINED IN 33-1-206, MARINE INSURANCE AS AUTHORIZED IN 33-1-209 AND 33-1-221 THROUGH 33-1-229, PROPERTY INSURANCE AS DEFINED IN 33-1-210, SURETY INSURANCE AS DEFINED IN 33-1-211, AND TITLE INSURANCE AS DEFINED IN 33-1-212."

Purpose is to define group benefits which are not defined in current law applicable to political subdivisions. The language is largely borrowed from the definition of group benefits for state employees, removing inapplicable language

**Section 2.** Section 2-18-703, MCA, is amended to read:

**"2-18-703. Contributions.** (1) Each agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

(2) For employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is \$557 a month from January 2007 through December 2007, \$590 a month from January 2008 through December 2008, and \$626 for January 2009 and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is \$557 a month from July 2006 through June 2007, \$590 a month from July 2007 through June 2008, and \$626 for July 2008 and for each succeeding month. If a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer's premium contributions may exceed but may not be less than \$10 a month. Subject to the public hearing requirement provided in 2-9-212(2)(b), the increase in a local government's property tax levy for premium contributions for group benefits beyond the amount of contributions in effect on the first day of the last fiscal year is not subject to the mill levy calculation limitation provided for in 15-10-420.

Deletes the language applicable to local government units (political subdivisions) to move it into its own section apart from the school language.

(4) (a) For employees of ~~local government units~~ POLITICAL SUBDIVISIONS, AS DEFINED IN 2-9-101, EXCEPT SCHOOL DISTRICTS, the employer's contributions may exceed but may not be less than \$10 a month.

Deletes the term "local government units" as defined in the subsection above and changes the term to political subdivisions for consistency of use throughout and references where the term "political subdivisions" is defined.

(b) Subject to the public hearing requirement provided in 2-9-212(2)(b), the amount in excess of the base ~~amount~~ CONTRIBUTION of a local government's property tax levy for contributions for group benefits as determined in subsection (4) ~~(d)~~ (c) is not subject to the mill levy calculation limitation provided for in 15-10-420.

Amends the requirement that a public hearing be held before levying permissive mills for group benefits and recodes the current provision that the amount in excess of the base (or group) contribution is not subject to the overall mill levy limitation. Amendment changes the term "amount" to "contribution" for further clarification

(c) Subject to subsections (4)(c)(i) and (4)(c)(ii), the base contribution is determined by multiplying the average annual contribution for each employee on July 1, 1999, times the number of employees for whom the employer ~~made~~ MAKES contributions for group benefits under 2-9-212 on July 1, ~~1999~~ OF EACH FISCAL YEAR.

Establishes how the base amount is determined if a political subdivision had a group benefit plan in place July 1, 1999. **Amendment relocates the determination of the base each year into this subsection because subsection (d) is being stricken.**

(i) If a political subdivision did not make contributions for group benefits on or before July 1, 1999, and subsequently does so, the base contribution is determined by multiplying the average annual contribution for each employee in the first year the ~~unit of local government~~ POLITICAL SUBDIVISION provides contributions for group benefits times the number of employees for whom the employer ~~made~~ MAKES contributions for group benefits under 2-9-212 in that year ON JULY 1 OF EACH FISCAL YEAR.

Establishes how a political subdivision that did not have a group benefit plan in place on July 1, 1999 establishes the base to be used in calculating the permissive levy. Changes the term "unit of local government" to "political subdivision" for consistency. **Amendment relocates the determination of the base each year into this subsection because subsection (d) is being stricken.**

(ii) If a political subdivision has made contributions for group benefits but has not previously levied for contributions in excess of the base ~~amount~~ CONTRIBUTION, the political subdivision's base is determined by multiplying the average annual contribution for each employee at the beginning of the fiscal year immediately preceding the year in which the levy will first be levied times the number of employees for whom the employer made contributions for group benefits under 2-9-212 in that fiscal year.

Establishes how a political subdivision that has a group plan in place but has not levied a permissive levy in the past determines the base amount if they levy permissive mills in the future. **Amendment changes the term "amount" to "contribution" for further clarification**

~~(d) The base amount REFERRED TO IN SUBSECTION (4)(B) is annually determined by multiplying the number of employees on July 1 of each fiscal year times the THAT YEAR'S AVERAGE ANNUAL CONTRIBUTION AND SUBTRACTING FROM THAT AMOUNT THE base contribution determined under subsection (4)(c).~~

Amendment strikes this subsection that was intended to provide how the base was determined each year. That is now provided for by the previous amendments to subsection (c).

~~(4)(5)~~ Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

~~(5)(6)~~ Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

~~(6)(7)~~ The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

**Section 3.** Section 15-10-420, MCA, is amended to read:

**"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

- (i) annexation of real property and improvements into a taxing unit;
- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287;

or

- (iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district

terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

~~—(a) school district levies established in Title 20; or~~

~~—(b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.~~

*Strikes the permissive authority for a "governmental entity" from being combined with the school exemption to the overall mill levy limitation so that it can be placed in a new subsection for political subdivisions.*

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; or

(iv) a levy for the support of a study commission under 7-3-184; or



(v) the portion that is the amount in excess of the base ~~amount~~ CONTRIBUTION of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703.

Re-establishes the permissive levy authority stricken in the previous subsection. The reason "governmental entity" is not changed to "political subdivision" in this section is that the previous sections being amended were related to group benefits in Title 2, this is amending a section of property tax code. To change it throughout all of Title 15 could have some serious unintended consequences. Note that this subsection references back to Title 2 to tie it together. **Amendment changes term "amount" to "contribution" to tie to the use of the term in Sections 1 and 2**

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit."

**NEW SECTION. SECTION 4. TRANSITION. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), A POLITICAL SUBDIVISION THAT LEVIED MILLS FOR GROUP CONTRIBUTIONS PURSUANT TO 2-18-703 IN FISCAL YEAR 2009 MAY FOR THE FISCAL YEARS 2010 THROUGH 2014 LEVY THE GREATER OF:**

(A) THE DOLLAR AMOUNT LEVIED IN 2009; OR

(B) THE AMOUNT DETERMINED IN 2-18-703.

(2) THE ACTUAL DOLLAR AMOUNT UNDER SUBSECTION (1)(A) MAY NOT INCLUDE AN AMOUNT FOR GROUP BENEFITS PAID FROM USER CHARGES DESCRIBED IN 2-9-212(2)(A)(I).

This section provides for a transition for political subdivisions that may have in the past or currently have not calculated the permissive levy correctly. It allows political subdivisions that are in this situation a period of five years to come into conformance with the formula.

**NEW SECTION. Section 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

This is a standard Saving Clause which is self-explanatory

**NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2009.

Makes the changes in the calculation for the permissive levy for group benefits effective with the new fiscal year, beginning July 1, 2009.

- END -

**Latest Version of SB 491 (SB0491.03)**

Processed for the Web on March 25, 2009 (4:42pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

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Prepared by Montana Legislative Services

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**Determination of amount for Group Benefits not subject to the mill levy cap in 15-10-420**

	Fiscal Year	1999	2000	2001	2002	2003	2004
Monthly Contribution for Group Benefits	A	\$400	\$410	\$410	\$425	\$425	\$450
Average Annual Contribution for Group Benefits	B (A times 12)	\$4,800	\$4,920	\$4,920	\$5,100	\$5,100	\$5,400
Number of Employees	C	100	100	100	100	110	110
Fiscal Year Contribution for Group Benefits	D (C times D) (C times B in base year)	\$480,000	\$492,000	\$492,000	\$510,000	\$561,000	\$594,000
Base Average Annual Contribution per Employee	E	\$480,000	\$480,000	\$480,000	\$480,000	\$528,000	\$528,000
Amount in excess of Base Contribution not subject to the levy cap (permissive levy)	(D minus E)	\$0	\$12,000	\$12,000	\$30,000	\$33,000	\$66,000

	Fiscal Year	2005	2006	2007	2008	2009	2010
Monthly Contribution for Group Benefits	A	\$450	\$450	\$450	\$460	\$460	\$460
Average Annual Contribution for Group Benefits	B (A times 12)	\$5,400	\$5,400	\$5,400	\$5,520	\$5,520	\$5,520
Number of Employees	C	110	105	105	110	115	115
Fiscal Year Contribution for Group Benefits	D (C times D) (C times B in base year)	\$594,000	\$567,000	\$567,000	\$607,200	\$634,800	\$634,800
Base Average Annual Contribution per Employee	E	\$528,000	\$504,000	\$504,000	\$528,000	\$552,000	\$552,000
Amount in excess of Base Contribution not subject to the levy cap (permissive levy)	(D minus E)	\$66,000	\$63,000	\$63,000	\$79,200	\$82,800	\$82,800